

**In the United States Court of Federal Claims  
OFFICE OF SPECIAL MASTERS  
No. 20-923**

ERIC NOWAK,

UNPUBLISHED

Petitioner,

Filed: July 12, 2024

V.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

### Respondent.

*Leigh Finfer*, Muller Brazil, LLP, Dresher, PA, for Petitioner  
*Joseph Adam Lewis*, U.S. Department of Justice, Washington, DC, for Respondent

## DECISION ON JOINT STIPULATION<sup>1</sup>

On July 29, 2020, Eric Nowak (“Petitioner”) filed a petition, seeking compensation under the National Vaccine Injury Compensation Program (“the Vaccine Program”).<sup>2</sup> Pet., ECF No. 1. Petitioner alleges he suffered from a shoulder injury related to vaccine administration (hereinafter “SIRVA”) as a result of the tetanus, diphtheria, and acellular pertussis (hereinafter “Tdap”) vaccination he received on January 29, 2019. *See* Stipulation ¶ 2, dated July 12, 2024 (ECF No. 60); *see also* Petition.

Respondent denies "that petitioner sustained a SIRVA Table injury; denies that the vaccine

<sup>1</sup> Although this Decision has been formally designated “not to be published,” it will nevertheless be posted on the Court of Federal Claims’ website in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). **This means the Decision will be available to anyone with access to the internet.** As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the Decision’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the Decision in its present form will be available. *Id.*

<sup>2</sup> The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755 (codified as amended at 42 U.S.C. §§ 300aa-10–34 (2012)) (hereinafter “Vaccine Act” or “the Act”). All subsequent references to sections of the Vaccine Act shall be to the pertinent subparagraph of 42 U.S.C. § 300aa.

caused petitioner's alleged shoulder injury or any other injury; and denies that his current condition is a sequela of a vaccine-related injury." *See* Stipulation ¶ 6. Nonetheless, both parties, while maintaining their above-stated positions, agreed in a stipulation filed on July 12, 2024, that the issues before them can be settled and that a decision should be entered awarding Petitioner compensation.

I have reviewed the file, and based upon that review, I conclude that the parties' stipulation is reasonable. I therefore adopt it as my decision in awarding damages on the terms set forth therein.<sup>3</sup>

The stipulation awards:

a lump sum of \$33,000.00 in the form of a check payable to petitioner.

Stipulation ¶ 8. This award represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

I approve a Vaccine Program award in the requested amount set forth above to be made to Petitioner. In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court is directed to enter judgment herewith.<sup>4</sup>

**IT IS SO ORDERED.**

s/ Katherine E. Oler  
Katherine E. Oler  
Special Master

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<sup>3</sup> Petitioner electronically signed the stipulation using VineSign. Pursuant to OSM policy as of December 6, 2023, the last page of the stipulation containing Petitioner's email address, phone number, and IP address has been removed prior to filing to avoid unnecessary disclosure of Petitioner's personal information.

<sup>4</sup> Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by jointly filing notice renouncing their right to seek review.